REMARKS

At the time of the Office Action dated June 10, 2005, claims 1-24 were pending in this application. Of those claims, claims 1, 17, 22 and 24 have been rejected. Applicants acknowledge, with appreciation, the Examiner's allowance of claim 23. Applicants also acknowledge, with appreciation, the Examiner's indication that claims 2-16 and 18-21 contain allowable subject matter. Claim 5 has been amended to be placed in independent form. Applicants submit that the present Amendment does not generate any new matter issue.

On page 2 of the Office Action, the Examiner objected to the specification for missing copending application missing. In response Applicants have amended the specification to address this issue.

On page 2 of the Office Action, the Examiner asserted that the Abstract is longer than 150 words. Both an electronic and manual count of the current Abstract yielded a total of 133 words. Thus, Applicants respectfully submit that the Abstract is properly formatted.

CLAIMS 1, 17, 22 AND 24 ARE REJECTED UNDER 35 U.S.C. § 102 AS BEING ANTICIPATED BY BALCEROWSKI ET AL., U.S. PATENT NO. 6,101,545 (HEREINAFTER BALCEROWSKI)

On page 3 and 4 of the Office Action, the Examiner asserted that Balcerowski discloses a method corresponding to that claimed. This rejection is respectfully traversed.

To teaching the claimed "referring to characteristics of the received message and subscriber-specified quality of service requirements," the Examiner referred to column 2, lines 43-48 of Balcerowksi. For ease of reference, column 2, lines 43-62 of Balcerowski is reproduced below:

> A first computer 30 is to send message 34 to a second computer 94. The message 34 has a message delivery type 38 which has values based on a delivery characteristic 40. The delivery characteristic 40 includes the delivery being characterized as time critical 42 or delivery critical 46.
>
> First, the message 34 is received by a message receiver 50 and has its message delivery type 38 analyzed by a message type determinator 54. A message delivery selector 58 determines what protocol to transport the message based upon the analyzed message delivery type 38.
>
> The message delivery selector 58 selects different protocols based upon which one most effectively handles the particular message delivery type of the message 34. Accordingly, a protocol which most effectively handles time critical messages is selected as the present invention's time critical message protocol 62. A protocol which most effectively handles delivery critical messages is selected as the present invention's delivery critical message protocol 66.

As evidenced by the above-disclosure, Balcerowski teaches a message delivery selector 58 determining what protocol to use based upon the analyzed message delivery type 38. As shown in Fig. 1, the message delivery type 38 is found within the message 34. There is, however, no disclosure that subscriber-specified quality of service requirements are used by the message delivery selector 48 to determine the protocol. In contrast, claim 1 recites that <u>both</u> characteristics of the received message <u>and</u> subscriber-specified quality of service requirements are used to determine an appropriate quality or service for onwards transmission of the message.

Reference is also made to the paragraph spanning pages 4 and 5 of Applicants' disclosure, which discusses Balcerowski. As stated therein: "the sender of a message can specify a message

type ... but no information about the intended recipient of the message is involved in this selection."

With regard to dependent claim 17 the Examiner stated that "if a message is sent the subscriber is connected and the QOS is referred for the message." Applicants have been unable to find an explicit disclosure of this teaching within Balcerowski, and Applicants note that this teaching has not been established as being inherently (i.e., necessarily) disclosed by Balcerowski. Moreover, even if this teaching can be found in Balcerowski, Applicants are unclear as to how this teaching identically discloses the limitations recited in claim 17. Furthermore, as argued above, Balcerowksi does not teach subscriber-specified quality of service requirements; and thus, Balcerowksi cannot teach the limitations recited in claim 17, which are directed to subscriber-specified quality of service requirements.

Independent claims 22 and 24 also recite that the appropriate quality of service for onward transmission of a message is based on subscriber-specified quality of service requires for the received message, and this is neither taught nor suggested by Balcerowski. Therefore, for the reasons stated above Applicants respectfully submit that the imposed rejection of claims 1, 17, 22 and 24 under 35 U.S.C. § 102 for anticipation based upon Balcerowski is not factually viable and, hence, solicit withdrawal thereof.

CLAIMS 1, 17, 22 AND 24 ARE REJECTED UNDER 35 U.S.C. § 102 AS BEING ANTICIPATED BY MOHABAN ET AL., U.S. PATENT NO. 6,463,470 (HEREINAFTER MOHABAN)

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On page 4 and 5 of the Office Action, the Examiner asserted that Mohaban discloses a method corresponding to that claimed. This rejection is respectfully traversed.

To teaching the claimed "referring to characteristics of the received message and subscriber-specified quality of service requirements," the Examiner referred to column 5, lines 48-52 of Mohaban. For ease of reference, this column 5, lines 48-54 is reproduced below:

> in one embodiment, a method of integrating a network with policies representing quality of service treatments of network data flows for network devices. The method may comprise creating and storing information structures representing one or more of the policies representing quality of service treatments of network data flows for network devices according to a schema that is disclosed herein.

A review of this passage and of the entirety of Mohaban does not yield any teaching regarding a publish/subscribe environment, publisher programs, subscriber programs, or a publisher and/or subscriber. Applicants note Mohaban teaches "storing information structures representing one or more of the policies representing quality of service treatments of network data flows." This teaching, however, does not <u>identically</u> disclose the claimed invention. There is no mention within this cited passage as to where "the policies representing quality of service treatments" originate. Claim 1 recites that a determination as to an appropriate quality or service for onwards transmission of a message is based on <u>subscriber-specified</u> quality of service requirements and characteristics found within the message itself. The Examiner's cited passage within Mohaban is completely silent as to these limitations. Thus, a prima facie case of anticipation, with the meaning of 35 U.S.C. § 102, has not been established.

With regard to dependent claim 17 the Examiner stated that "if a message is sent the subscriber is connected and the QOS is referred for the message." Applicants have been unable to find an explicit disclosure of this teaching within Mohaban, and Applicants note that this teaching has not been established as being inherently (i.e., necessarily) disclosed by Mohaban. Moreover, even if this teaching can be found in Mohaban, Applicants are unclear as to how this teaching identically discloses the limitations recited in claim 17. Furthermore, as argued above, Mohaban does not teach subscriber-specified quality of service requirements; and thus, Mohaban cannot teach the limitations recited in claim 17, which are directed to subscriber-specified quality of service requirements.

Independent claims 22 and 24 also recite that the appropriate quality of service for onward transmission of a message is based on subscriber-specified quality of service requires for the received message, and this is not found in the passage cited by the Examiner. Therefore, for the reasons stated above Applicants respectfully submit that the imposed rejection of claims 1, 17, 22 and 24 under 35 U.S.C. § 102 for anticipation based upon Mohaban is not factually viable and, hence, solicit withdrawal thereof.
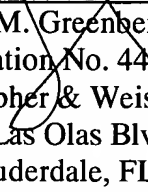
Applicants have made every effort to present claims which distinguish over the prior art, and it is believed that all claims are in condition for allowance. However, Applicants invite the Examiner to call the undersigned if it is believed that a telephonic interview would expedite the prosecution of the application to an allowance. Accordingly, and in view of the foregoing

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remarks, Applicants hereby respectfully request reconsideration and prompt allowance of the

pending claims.

To the extent necessary, a petition for an extension of time under 37 C.F.R. § 1.136 is

hereby made. Please charge any shortage in fees due in connection with the filing of this paper,

including extension of time fees, to Deposit Account 09-0461, and please credit any excess fees to

such deposit account.

Date: September 12, 2005   Respectfully submitted,

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